

**Title 36: TAXATION**  
**Chapter 703: CIGARETTE TAX**

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**Maine Revised Statutes**  
**Title 36: TAXATION**  
**Chapter 703: CIGARETTE TAX**

**§4361. DEFINITIONS**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1997, c. 458, §1 (AMD).]

**1. Dealer.**

[ 2007, c. 438, §88 (RP) .]

**1-A. Cigarette.** "Cigarette" means a cigarette, as defined in Section 5702 of the Code.

[ 1997, c. 458, §1 (AMD) .]

**1-B. Delivery sale.** "Delivery sale" means a sale of cigarettes to a consumer in this State when:

A. The purchaser submits the order for the sale by means of telephonic or other electronic method of voice transmission, the Internet or a delivery service; or [2011, c. 285, §9 (NEW) .]

B. The cigarettes are delivered by use of a delivery service. [2011, c. 285, §9 (NEW) .]

[ 2011, c. 285, §9 (NEW) .]

**2. Distributor.** "Distributor" means any person engaged in this State in the business of producing or manufacturing cigarettes in this State, importing cigarettes into this State, making delivery sales or making wholesale purchases or sales of cigarettes in this State on which the tax imposed by this chapter has not been paid.

[ 2011, c. 285, §10 (AMD) .]

**3. Licensed dealer.**

[ 1983, c. 838, §12 (RP) .]

**4. Licensed distributor.** "Licensed distributor" means a distributor licensed under this chapter.

[ 1983, c. 828, §12 (AMD) .]

**4-A. Licensed wholesale dealer.**

[ 1997, c. 458, §1 (RP) .]

**5. Person.**

[ 1997, c. 458, §1 (RP) .]

**6. Sale or sell.** "Sale" or "sell" includes or applies to gifts, exchanges and barter.

[ 1997, c. 458, §1 (AMD) .]

**7. Sub-jobber.**

[ 1997, c. 458, §1 (RP) .]

**8. Tax Assessor.**

[ 1979, c. 378, §29 (RP) .]

**9. Unclassified importer.**

[ 1997, c. 458, §1 (RP) .]

**10. Unstamped cigarettes.** "Unstamped cigarettes" means cigarettes to which stamps issued by the State Tax Assessor pursuant to section 4366-A are not affixed.

[ 1997, c. 458, §1 (NEW) .]

## SECTION HISTORY

1979, c. 378, §29 (AMD). 1983, c. 828, §12 (AMD). 1997, c. 458, §1 (AMD). 2007, c. 438, §88 (AMD). 2011, c. 285, §§9, 10 (AMD).

**§4362. LICENSES**

*(REPEALED)*

## SECTION HISTORY

1977, c. 696, §287 (AMD). 1979, c. 508, §1 (AMD). 1983, c. 828, §13 (AMD). 1997, c. 458, §2 (RP).

**§4362-A. LICENSES**

**1. Generally.** A distributor doing business in this State shall obtain a license from the assessor. A license must be obtained for each wholesale outlet maintained by the distributor. A distributor's license must be prominently displayed on the premises covered by the license. A distributor's license issued pursuant to this section is not a license within the meaning of that term in the Maine Administrative Procedure Act.

[ 2015, c. 300, Pt. A, §36 (AMD) .]

**2. Applications; forms.** An application for a distributor's license must be made on a form prescribed and issued by the assessor. Licenses are issued in the form prescribed by the assessor and must contain the name and address of the licensed distributor, the address of the place of business and such other information as the assessor may require for the proper administration of this chapter.

[ 2007, c. 438, §89 (AMD) .]

**3. Expiration and reissuance.** A distributor's license expires one year from the 30th day of June next succeeding the date of issuance unless sooner revoked by the assessor pursuant to subsection 5 or unless the business with respect to which the license was issued is sold, in either of which cases the holder of the license shall immediately surrender it to the assessor.

A person may not be issued a distributor's license or granted a renewal of a license unless the person certifies in writing to the Attorney General that the person is in compliance with Title 22, section 1580-L.

[ 2003, c. 439, §2 (AMD) .]

**4. Penalties.** The following penalties apply to violations of this section.

A. A distributor who imports into this State any cigarettes without holding a distributor's license issued by the assessor pursuant to this section commits a civil violation for which a fine of not less than \$250 and not more than \$500 must be adjudged. [2003, c. 452, Pt. U, §9 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. A distributor who violates paragraph A after having been previously adjudicated as violating paragraph A commits a civil violation for which a fine of not less than \$500 and not more than \$1,000 must be adjudged for each subsequent violation. [2003, c. 452, Pt. U, §9 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

C. A distributor who sells at wholesale, offers for sale at wholesale or possesses with intent to sell at wholesale any cigarettes without holding a distributor's license issued by the assessor pursuant to this section commits a civil violation for which a fine of not less than \$250 and not more than \$500 must be adjudged. [2003, c. 452, Pt. U, §9 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

D. A distributor who violates paragraph C after having been previously adjudicated as violating paragraph C commits a civil violation for which a fine of not less than \$500 and not more than \$1,000 must be adjudged for each subsequent violation. [2003, c. 452, Pt. U, §9 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[ 2003, c. 452, Pt. U, §9 (RPR); 2003, c. 452, Pt. X, §2 (AFF) .]

**5. Revocation or suspension.** The assessor may revoke or suspend the license of a distributor for failure to comply with any provision of this chapter or if the distributor no longer imports or sells cigarettes. Any person aggrieved by a revocation or suspension may request reconsideration as provided in section 151.

[ 2007, c. 438, §90 (AMD) .]

#### SECTION HISTORY

1997, c. 458, §3 (NEW). 2001, c. 526, §3 (AMD). 2003, c. 439, §2 (AMD). 2003, c. 452, §9 (AMD). 2003, c. 452, §X2 (AFF). 2007, c. 438, §§89,90 (AMD). 2015, c. 300, Pt. A, §36 (AMD).

### **§4363. -- EXPIRATION; REISSUANCE**

*(REPEALED)*

#### SECTION HISTORY

1979, c. 508, §2 (AMD). 1997, c. 458, §4 (RP).

### **§4364. -- REVOCATION**

*(REPEALED)*

#### SECTION HISTORY

1983, c. 828, §14 (AMD). 1997, c. 458, §5 (RP).

### **§4365. RATE OF TAX**

A tax is imposed on all cigarettes imported into this State or held in this State by any person for sale at the rate of 100 mills for each cigarette. Payment of the tax is evidenced by the affixing of stamps to the packages containing the cigarettes. [2005, c. 457, Pt. AA, §1 (AMD); 2005, c. 457, Pt. AA, §8 (AFF).]

#### SECTION HISTORY

1965, c. 343, §§1,2 (AMD). P&SL 1967, c. 154, §G (AMD). P&SL 1967, c. 191, §§E1,E2 (AMD). 1967, c. 544, §§96,97 (AMD). 1967, c. 544, §§110,113 (RP). 1969, c. 295, §§6,7 (AMD). P&SL 1971, c. 117, §§E1,2 (AMD). 1973, c. 768, §§2,3 (AMD). 1975, c. 623, §60 (AMD). 1977, c. 477, §§13,14 (AMD). 1977, c. 696, §288 (AMD). 1979, c. 127, §198 (AMD). 1983, c. 477, Pt. F, Subpt. 2, (AMD). 1983, c. 859, §§M8,M13 (AMD). 1985, c. 1, (AMD). 1985, c. 535, §9 (AMD). 1989, c. 588, §D1 (AMD). 1997, c. 458, §6 (RPR). 1997, c. 560, §A2 (AMD). 1997, c. 560, §A5 (AFF). 1997, c. 643, §T3 (AMD). 1997, c. 643, §T6 (AFF). 1997, c. 750, §D1 (AFF). 1999, c. 414, §37 (AMD). 2001, c. 396, §31 (AMD). 2001, c. 439, §§SSS1 (AMD). 2001, c. 439, §§SSS4 (AFF). 2003, c. 705, §6 (AMD). 2005, c. 218, §44 (AMD). 2005, c. 457, §AA1 (AMD). 2005, c. 457, §AA8 (AFF).

### **§4365-A. RATE OF TAX AFTER SEPTEMBER 30, 1989**

**(REPEALED)**

#### SECTION HISTORY

1985, c. 535, §10 (NEW). 1989, c. 588, §D2 (AMD). 1997, c. 458, §7 (RP).

### **§4365-B. RATE OF TAX AFTER DECEMBER 31, 1990**

**(REPEALED)**

#### SECTION HISTORY

1989, c. 588, §D3 (NEW). 1997, c. 458, §8 (RP).

### **§4365-C. RATE OF TAX AFTER JUNE 30, 1991**

**(REPEALED)**

#### SECTION HISTORY

1989, c. 588, §D3 (NEW). 1997, c. 458, §8 (RP).

### **§4365-D. RATE OF TAX BEGINNING NOVEMBER 1, 1997**

**(REPEALED)**

#### SECTION HISTORY

1997, c. 560, §A3 (NEW). 1997, c. 560, §A5 (AFF). 1997, c. 643, §T4 (AMD). 1997, c. 643, §T6 (AFF). 1997, c. 750, §D1 (AFF). 1999, c. 414, §38 (RP).

### **§4365-E. APPLICATION OF CIGARETTE TAX RATE INCREASE EFFECTIVE OCTOBER 1, 2001**

**(REPEALED)**

#### SECTION HISTORY

2001, c. 439, §§SSS2 (NEW). 2005, c. 218, §45 (AMD). 2005, c. 457, §AA8 (AFF). 2005, c. 457, §AA2 (RP).

## §4365-F. APPLICATION OF CIGARETTE TAX RATE INCREASE EFFECTIVE SEPTEMBER 19, 2005

The following provisions apply to cigarettes held for resale on September 19, 2005. [ 2005, c. 457, Pt. AA, §3 (NEW); 2005, c. 457, Pt. AA, §8 (AFF). ]

**1. Stamped rate.** Cigarettes stamped at the rate of 50 mills per cigarette and held for resale after September 18, 2005 are subject to tax at the rate of 100 mills per cigarette.

[ 2005, c. 457, Pt. AA, §3 (NEW); 2005, c. 457, Pt. AA, §8 (AFF) . ]

**2. Liability.** A person possessing cigarettes for resale is liable for the difference between the tax rate of 100 mills per cigarette and the tax rate of 50 mills per cigarette in effect before September 19, 2005. Stamps indicating payment of the tax imposed by this section must be affixed to all packages of cigarettes held for resale as of September 19, 2005, except that cigarettes held in vending machines as of that date do not require that stamp.

[ 2005, c. 457, Pt. AA, §3 (NEW); 2005, c. 457, Pt. AA, §8 (AFF) . ]

**3. Vending machines.** Notwithstanding any other provision of this chapter, it is presumed that all cigarette vending machines are filled to capacity on September 19, 2005 and that the tax imposed by this section must be reported on that basis. A credit against this inventory tax must be allowed for cigarettes stamped at the rate of 100 mills per cigarette placed in vending machines before September 19, 2005.

[ 2005, c. 457, Pt. AA, §3 (NEW); 2005, c. 457, Pt. AA, §8 (AFF) . ]

**4. Payment.** Payment of the tax imposed by this section must be made to the assessor by December 19, 2005, accompanied by forms prescribed by the assessor.

[ 2005, c. 457, Pt. AA, §3 (NEW); 2005, c. 457, Pt. AA, §8 (AFF) . ]

### SECTION HISTORY

2005, c. 457, §AA3 (NEW). 2005, c. 457, §AA8 (AFF).

## §4366. STAMPS PROVIDED BY STATE TAX ASSESSOR (REPEALED)

### SECTION HISTORY

1965, c. 343, §3 (AMD). P&SL 1967, c. 191, §E3 (AMD). 1969, c. 504, §50 (AMD). 1973, c. 768, §5 (AMD). 1981, c. 364, §47 (AMD). 1983, c. 828, §15 (AMD). 1997, c. 458, §9 (RP).

## §4366-A. CIGARETTE TAX STAMPS

### 1. Generally.

[ 2009, c. 361, §22 (RP) . ]

**2. Provided to sellers.** The State Tax Assessor shall provide stamps to a licensed distributor upon submission by the licensed distributor of a cigarette tax return in a form prescribed by the assessor. The stamps must be of a design suitable to be affixed to packages of cigarettes as evidence of the payment of the tax imposed by this chapter. The assessor may permit a licensed distributor to pay for the stamps within 30 days after the date of purchase, if a bond satisfactory to the assessor in an amount not less than 50% of the sale price of the stamps has been filed with the assessor conditioned upon payment for the stamps. Such

a distributor may continue to purchase stamps on a 30-day deferral basis only if it remains current with its cigarette tax obligations. The assessor may not sell additional stamps to a distributor that has failed to pay in full within 30 days for stamps previously purchased until such time as the overdue payment is received. The assessor shall sell cigarette stamps to licensed distributors at the following discounts from their face value:

- A. [2007, c. 438, §93 (RP).]
- B. [2007, c. 438, §93 (RP).]
- C. [2007, c. 438, §93 (RP).]
- D. For stamps at the face value of 100 mills, the discount rate is 1.15%. [2007, c. 438, §93 (AMD).]

[ 2009, c. 361, §23 (AMD) .]

**3. Affixed to cigarettes.** A distributor shall affix stamps of the proper denominations to individual packages of cigarettes sold or distributed by the distributor in this State. The distributor shall affix the stamps in the manner specified by the assessor before the cigarettes are transferred out of the possession of the distributor. A distributor may not sell, offer for sale or display for sale in this State cigarettes that do not bear stamps evidencing the payment of the tax imposed by this chapter, except that a licensed distributor may sell unstamped cigarettes to another licensed distributor if the sales are documented in a form prescribed by the assessor. The face value of the stamps must be considered as part of the retail cost of the cigarettes.

[ 2009, c. 361, §24 (AMD) .]

**4. Resale and reuse of stamps prohibited.** A distributor may not:

- A. Sell, transfer, reaffix or reuse cigarette stamps issued by the assessor pursuant to this chapter. [2007, c. 438, §94 (AMD).]
- B. [2007, c. 438, §94 (RP).]

[ 2007, c. 438, §94 (AMD) .]

**4-A. Redemption of stamps before July 1, 2012.** Before July 1, 2012, the assessor shall redeem any unused, uncanceled stamps presented within one year of the date of purchase by a licensed distributor at a price equal to the amount paid for them. Credit for uncanceled stamps is allowed only on full, unopened rolls unless the distributor ceases business as a distributor and returns the license issued under section 4362-A. The assessor may also redeem, at face value, cigarette tax stamps affixed to packages of cigarettes that have become unsalable if application is made within 90 days of the return of the unsalable cigarettes to the manufacturer.

[ 2011, c. 441, §1 (AMD) .]

**4-B. Redemption of stamps beginning July 1, 2012.** Beginning July 1, 2012, the assessor shall redeem any unused, uncanceled stamps presented within one year of the date of purchase by a licensed distributor at a price equal to the amount paid for them. Credit for uncanceled stamps is allowed only on full, unopened rolls unless the distributor ceases business as a distributor and returns the license issued under section 4362-A. The assessor may also redeem, at face value, cigarette tax stamps affixed to packages of cigarettes that have become unsalable if application is made within 90 days of the return of the unsalable cigarettes to the manufacturer or of the destruction of the unsalable cigarettes by the distributor. The assessor may either witness the destruction of the unsalable cigarettes or may accept another form of proof that the unsalable cigarettes have been destroyed by the distributor or returned to the manufacturer.

[ 2011, c. 441, §2 (NEW) .]



**5. Possession of unstamped cigarettes; presumption of intent for sale.** The possession in this State by any person other than a licensed distributor of unstamped cigarettes is prima facie evidence that the cigarettes have been imported and that they are intended for sale in this State.

[ 1997, c. 458, §10 (NEW) .]

**6. Penalties.** The following penalties apply to violations of this section.

A. A person who sells, offers for sale, displays for sale or possesses with intent to sell unstamped cigarettes in violation of this section commits a Class D crime. [2003, c. 452, Pt. U, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. [2009, c. 361, §25 (RP).]

C. A person who sells, transfers, reaffixes or reuses cigarette stamps in violation of this section commits a Class D crime. [2009, c. 361, §25 (AMD).]

D. [2009, c. 361, §25 (RP).]

Except as otherwise specifically provided, violation of this subsection is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

[ 2009, c. 361, §25 (AMD) .]

#### SECTION HISTORY

1997, c. 458, §10 (NEW). 2001, c. 439, §SSSS3 (AMD). 2003, c. 452, §§U10-13 (AMD). 2003, c. 452, §X2 (AFF). 2005, c. 218, §46 (AMD). 2005, c. 457, §§AA4,5 (AMD). 2005, c. 457, §AA8 (AFF). 2005, c. 622, §25 (AMD). 2005, c. 622, §34 (AFF). 2007, c. 438, §§91-95 (AMD). 2009, c. 361, §§22-25 (AMD). 2011, c. 441, §§1, 2 (AMD).

### §4366-B. IMPORTATION OF UNSTAMPED CIGARETTES

**1. Generally.** Except as provided in subsection 2, only a licensed distributor may import unstamped cigarettes into this State.

[ 2007, c. 438, §96 (AMD) .]

**2. Exception for personal use.** An individual who is not a licensed distributor may transport cigarettes into this State and may transport cigarettes from place to place within this State for the individual's personal use in a quantity not greater than 2 cartons.

[ 2007, c. 438, §96 (AMD) .]

**3. Evidence.** The possession of more than 2 cartons of unstamped cigarettes by a person who is not a licensed distributor is prima facie evidence of a violation of this section.

[ 2007, c. 438, §96 (AMD) .]

**4. Penalties.** The following penalties apply to violations of this section.

A. A person who violates this section commits a Class E crime. [2003, c. 452, Pt. U, §14 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. A person who violates this section when the person has one or more prior convictions for violation of this section commits a Class D crime. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence. [2003, c. 452, Pt. U, §14 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

Violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

[ 2003, c. 452, Pt. U, §14 (RPR); 2003, c. 452, Pt. X, §2 (AFF) .]

#### SECTION HISTORY

1997, c. 458, §10 (NEW). 1997, c. 668, §27 (AMD). 2003, c. 452, §U14 (AMD). 2003, c. 452, §X2 (AFF). 2007, c. 438, §96 (AMD).

## §4366-C. SALES OF CIGARETTES IN CONTRAVENTION OF LAW

**1. Cigarettes; stamps not affixed.** A distributor may not offer for sale, sell or affix a stamp to a package of cigarettes if the package:

- A. Does not comply with the Federal Cigarette Labeling and Advertising Act, 15 United States Code, Section 1331, et seq., for the placement of labels, warnings or any other information for a package of cigarettes to be sold within the United States; [1999, c. 616, §3 (NEW) .]
- B. Is labeled "For Export Only," "U.S. Tax Exempt," "For Use Outside U.S." or with other wording indicating that the manufacturer did not intend that the product be sold in the United States; [1999, c. 616, §3 (NEW) .]
- C. Has been altered by adding or deleting wording, labels or warnings described in paragraphs A and B; [1999, c. 616, §3 (NEW) .]
- D. Has been imported into the United States in violation of 26 United States Code, Section 5754; or [1999, c. 616, §3 (NEW) .]
- E. In any way violates federal trademark or copyright laws. [1999, c. 616, §3 (NEW) .]

[ 2007, c. 438, §97 (AMD) .]

**2. Deceptive practice.** Selling a package of cigarettes described in subsection 1, with or without a stamp, is an unfair or deceptive act or practice under the Maine Unfair Trade Practices Act.

[ 1999, c. 616, §3 (NEW) .]

**2-A. Shipment only to licensed retailers.** A distributor may not sell or offer to sell cigarettes to a retailer unless the retailer has provided documentation to the distributor that the retailer holds a current retail tobacco license issued under Title 22, section 1551-A.

[ 2007, c. 172, §1 (NEW) .]

**3. Penalties.** The following penalties apply to violations of this section.

- A. A distributor who violates this section commits a Class E crime. [2007, c. 438, §97 (AMD) .]
- B. A distributor who violates this section when the distributor has one or more prior convictions for violation of this section commits a Class D crime. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence. [2007, c. 438, §97 (AMD) .]

Violation of this section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

[ 2007, c. 438, §97 (AMD) .]

#### SECTION HISTORY

1999, c. 616, §3 (NEW). 2003, c. 452, §U15 (AMD). 2003, c. 452, §X2 (AFF). 2007, c. 172, §1 (AMD). 2007, c. 438, §97 (AMD).

**§4366-D. ADDITIONAL CIGARETTE TAX*****(REPEALED)***

## SECTION HISTORY

2001, c. 450, §D1 (NEW). 2005, c. 218, §47 (RP).

**§4367. RESALE OF STAMPS PROHIBITED; REDEMPTION*****(REPEALED)***

## SECTION HISTORY

1971, c. 22, (AMD). 1997, c. 458, §11 (RP).

**§4368. STAMPS AFFIXED BY LICENSED DEALERS*****(REPEALED)***

## SECTION HISTORY

1985, c. 535, §11 (AMD). 1997, c. 458, §12 (RP).

**§4369. STAMPS AFFIXED BY LICENSED DEALERS*****(REPEALED)***

## SECTION HISTORY

1979, c. 508, §3 (AMD). 1983, c. 828, §16 (AMD). 1985, c. 535, §12 (AMD). 1997, c. 458, §13 (RP).

**§4370. SALE OF UNSTAMPED CIGARETTES PROHIBITED*****(REPEALED)***

## SECTION HISTORY

1967, c. 62, (AMD). 1977, c. 696, §289 (AMD). 1979, c. 508, §4 (AMD). 1983, c. 828, §17 (AMD). 1997, c. 458, §14 (RP).

**§4371. POSSESSION OF UNSTAMPED CIGARETTES; PRIMA FACIE EVIDENCE*****(REPEALED)***

## SECTION HISTORY

1983, c. 828, §18 (AMD). 1997, c. 458, §15 (RP).

**§4372. UNSTAMPED CIGARETTES TO BE CONFISCATED*****(REPEALED)***

## SECTION HISTORY

1975, c. 31, §§1,2 (AMD). 1977, c. 696, §290 (AMD). 1983, c. 828, §19 (AMD). 1997, c. 458, §16 (RP).

## §4372-A. SEIZURE AND FORFEITURE OF CONTRABAND CIGARETTES

**1. Generally.** Except as provided in subsection 2, any unstamped cigarettes or cigarettes described in section 4366-C, subsection 1 that are found in this State are hereby declared to be contraband goods subject to seizure by and forfeiture to the State. All law enforcement officers, including contract officers pursuant to Title 22, section 1556-A, and duly authorized agents of the State Tax Assessor may seize contraband cigarettes under the process described in subsection 3.

[ 1999, c. 616, §4 (AMD) .]

**2. Exceptions.** The following cigarettes are not subject to seizure:

A. Unstamped cigarettes in the possession of a licensed distributor; [1997, c. 458, §17 (NEW) .]

B. Unstamped cigarettes in the course of transit from outside the State that are consigned to a licensed distributor; and [2007, c. 438, §98 (AMD) .]

C. Unstamped cigarettes in a quantity of 2 cartons or less in the possession of an individual who is not a licensed distributor. [1997, c. 668, §28 (AMD) .]

Notwithstanding paragraphs A, B and C, cigarettes described in section 4366-C, subsection 1 are subject to seizure under the process described in subsection 3, unless the distributor can prove the cigarettes are to be exported out of the country.

[ 2007, c. 438, §98 (AMD) .]

**3. Procedure for seizure.** Contraband cigarettes may be seized by law enforcement officers and by duly authorized agents of the State Tax Assessor who have probable cause to believe that the cigarettes are unstamped cigarettes or cigarettes described in section 4366-C, subsection 1 under the following circumstances:

A. When the cigarettes are discovered in a place where the law enforcement officer or agent has the lawful right to be in the performance of official duties; or [1997, c. 458, §17 (NEW) .]

B. When the seizure is incident to a search under a valid search warrant or an inspection under a valid administrative inspection warrant. [1997, c. 458, §17 (NEW) .]

[ 1999, c. 616, §6 (AMD) .]

**4. Procedure for forfeiture.** A petition for forfeiture must be filed as provided in this subsection.

A. A district attorney or assistant district attorney, or the Attorney General or an Assistant Attorney General, may petition the District Court in the name of the State in the nature of a proceeding in rem to order the forfeiture of contraband cigarettes. [1997, c. 458, §17 (NEW) .]

B. There may be no discovery other than under the Maine Rules of Civil Procedure, Rule 36, except by order of the court upon a showing of substantial need. An order permitting discovery must set forth in detail the areas in which substantial need has been shown and the extent to which discovery may take place. [1997, c. 458, §17 (NEW) .]

C. A petition for forfeiture filed pursuant to this section must be accepted by the District Court without the assessment or payment of civil entry or filing fees otherwise provided for by rule of court. [1997, c. 458, §17 (NEW) .]

[ 1997, c. 458, §17 (NEW) .]

**5. Jurisdiction and venue.** Cigarettes subject to forfeiture under this section must be declared forfeited by the District Court having jurisdiction over the cigarettes. Venue is in the location where the contraband cigarettes are seized or in Kennebec County.

[ 1997, c. 458, §17 (NEW) . ]

**6. Type of action; burden of proof.** A proceeding instituted pursuant to this section is an in rem civil action. The State has the burden of proving all material facts by a preponderance of the evidence and the owner of the cigarettes or other person claiming the cigarettes has the burden of proving by a preponderance of the evidence one of the exceptions set forth in subsection 2.

[ 1997, c. 458, §17 (NEW) . ]

**7. Hearings; disposition; deposit of funds.** At a hearing, other than a default proceeding, the court shall hear evidence, make findings of fact, enter conclusions of law and file a final order from which the parties have the right of appeal. When cigarettes are ordered forfeited, the final order must provide for the disposition of the cigarettes by the State Tax Assessor by public auction or by the State Purchasing Agent. Proceeds must be deposited in the General Fund. Cigarettes described in section 4366-C, subsection 1 must be destroyed by the State Tax Assessor in a manner that prevents their reintroduction into the marketplace.

[ 1999, c. 616, §6 (AMD) . ]

**8. Default proceedings.** Default proceedings must be held in the same manner as default proceedings in other civil actions, except that service of motions and affidavits related to the default proceedings need not be served upon any person who has not answered or otherwise defended in the action.

[ 1997, c. 458, §17 (NEW) . ]

#### SECTION HISTORY

1997, c. 458, §17 (NEW). 1997, c. 668, §28 (AMD). 1999, c. 616, §§4-6 (AMD). 2007, c. 438, §98 (AMD).

### §4373. FORFEITURE PROCEEDINGS

*(REPEALED)*

#### SECTION HISTORY

1969, c. 4, (AMD). 1979, c. 615, §1 (AMD). 1983, c. 828, §20 (AMD). 1997, c. 458, §18 (RP).

### §4373-A. RECORDS REQUIRED; INSPECTION AND EXAMINATION; ASSESSMENT OF TAX DEFICIENCY

**1. Generally.** Distributors shall keep complete and accurate records of all cigarettes that they manufacture, produce, purchase, transfer or sell. The records must be of a kind and in the form prescribed by the State Tax Assessor and must be safely preserved for 6 years in a manner that ensures permanency and accessibility by authorized agents of the assessor. Records maintained by distributors must include the following data on either a calendar or fiscal year basis:

A. An inventory of unaffixed Maine cigarette stamps by denomination; [1997, c. 458, §19 (NEW) . ]

B. An inventory of stamped cigarettes, by pack size; [1997, c. 458, §19 (NEW) . ]

C. An inventory of unstamped cigarettes, by pack size; and [1997, c. 458, §19 (NEW) . ]

D. Copies of all documents supporting redemption for tax on unused, uncanceled stamps and for unsalable cigarettes. [1997, c. 458, §19 (NEW).]

If the rate of tax imposed by section 4365 is changed, a distributor shall take a new inventory.

[ 2007, c. 438, §99 (AMD) .]

**2. Inspection and examination; penalty.** The assessor or any authorized agent may enter into or upon any premises where there is reason to believe that cigarettes are possessed, stored or sold, and may examine the books, papers, records and cigarette stock of any distributor to determine compliance with the provisions of this chapter. Failure or refusal to permit an examination pursuant to this subsection is a civil violation for which a fine in the amount of \$250 must be imposed, no part of which may be suspended.

[ 2007, c. 438, §99 (AMD) .]

**3. Assessment of tax deficiency; presumptions.** If the assessor determines that a distributor has not purchased sufficient stamps to cover sales of cigarettes or has made sales of unstamped cigarettes, the assessor shall assess the tax deficiency pursuant to section 141. When a distributor cannot produce evidence of sufficient stamp purchases to cover receipts and sales or other disposition of cigarettes, it is presumed that the cigarettes were sold without having the proper stamps affixed to them.

[ 2007, c. 438, §99 (AMD) .]

#### SECTION HISTORY

1997, c. 458, §19 (NEW). 2001, c. 396, §32 (AMD). 2007, c. 438, §99 (AMD).

### §4374. FRAUDULENT STAMPS

Any person who, with the intent to defraud, makes, forges or counterfeits any stamp prescribed by the State Tax Assessor under this chapter or who causes or procures the same to be done, who knowingly utters, publishes, passes or renders as true any false, altered, forged or counterfeited stamp or who knowingly possesses any such false, altered, forged or counterfeited stamp, for the purpose of evading the tax imposed by this chapter, commits a Class C crime. [1997, c. 458, §20 (RPR).]

#### SECTION HISTORY

1977, c. 696, §291 (RPR). 1997, c. 458, §20 (RPR).

### §4375. RECORDS; EXAMINATIONS BY STATE TAX ASSESSOR

*(REPEALED)*

#### SECTION HISTORY

1979, c. 378, §30 (AMD). 1979, c. 508, §5 (AMD). 1979, c. 663, §223 (RPR). 1981, c. 364, §48 (RP).

### §4376. OATHS AND SUBPOENAS

*(REPEALED)*

#### SECTION HISTORY

1981, c. 364, §49 (RP).

### §4377. HEARINGS BY TAX ASSESSOR

*(REPEALED)*

## SECTION HISTORY

1977, c. 694, §712 (RP).

**§4378. APPEALS**

*(REPEALED)*

## SECTION HISTORY

1977, c. 694, §712 (RP).

**§4379. ADMINISTRATION; RULES**

The administration of this chapter is vested in the State Tax Assessor. All forms necessary and proper for the enforcement of this chapter must be prescribed and furnished by the assessor. The assessor shall appoint any agents necessary for effecting the purpose of this chapter. The assessor may adopt rules to carry into effect this chapter. [1997, c. 458, §21 (AMD).]

## SECTION HISTORY

1985, c. 785, §B169 (AMD). 1997, c. 458, §21 (AMD).

**§4380. USE OF METERING MACHINES**

*(REPEALED)*

## SECTION HISTORY

1983, c. 828, §21 (AMD). 1997, c. 458, §22 (RP).

**§4381. TAX CREDITED TO GENERAL FUND**

The revenue derived from the tax imposed by this chapter shall be credited to the General Fund of the State.

**§4382. TAX IS LEVY ON CONSUMER**

The liability for, or the incidence of, the tax on cigarettes is declared to be a levy on the consumer. The distributors shall add the amount of the tax on cigarettes presently levied to the price of the cigarettes and the distributor may state the amount of the taxes separately from the price of such cigarettes on all price display signs, sales or delivery slips, bills and statements which advertise or indicate the price of such cigarettes. This section shall in no way affect the method of collection of such taxes on cigarettes as now provided by existing law.

**§4383. DISTRIBUTOR RESPONSIBILITIES**

*(REPEALED)*

## SECTION HISTORY

2001, c. 322, §1 (NEW). 2003, c. 439, §3 (RP).

**§4384. REPORTING AND PAYMENT OF TAX**

A person who is not a licensed distributor who imports, receives or otherwise acquires unstamped cigarettes for use or consumption in the State in a quantity greater than 2 cartons in any one month from a person other than a licensed distributor shall file, on or before the last day of the month following each month in which unstamped cigarettes were acquired, a return on a form prescribed by the State Tax Assessor together with payment of the tax imposed by this chapter at the rate provided in section 4365. The return

must report the number of unstamped cigarettes imported, received or otherwise acquired during the previous calendar month and additional information the assessor may require. [ 2007, c. 438, §100 (AMD) . ]

#### SECTION HISTORY

2003, c. 705, §7 (NEW). 2007, c. 438, §100 (AMD).

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